

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)

Federal-State Joint Board on)
 Universal Service)

NPCR, INC. d/b/a NEXTEL PARTNERS)

Petition for Designation as an)
 Eligible Telecommunications Carrier)
 in the Commonwealth of Pennsylvania)

CC Docket 96-45

RECEIVED

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FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

**PETITION FOR DESIGNATION AS AN
 ELIGIBLE TELECOMMUNICATIONS CARRIER
 IN THE COMMONWEALTH OF PENNSYLVANIA**

NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners"), by its undersigned counsel and pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the "Act"), hereby submits this Petition for Designation ("Petition") as an eligible telecommunications carrier ("ETC") in the Commonwealth of Pennsylvania. Nextel Partners is licensed to, and provides, wireless telecommunications services throughout certain designated areas (the "Designated Areas") of the Commonwealth of Pennsylvania.¹ Each of these Designated Areas is a study area served by a rural telephone company as defined in Section 153(37) of the Act.² As demonstrated herein, and certified in Attachment 1 to this Petition, Nextel Partners meets all of the requirements for designation as an ETC in each of these Designated Areas and respectfully requests that the Commission promptly grant this Petition.

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¹ Nextel Partners is the A, B and C Block EA licensee throughout the Commonwealth of Pennsylvania.

² A list of the rural telephone company study areas for which Nextel Partners seeks designation in this Petition (also referred to herein as the "Designated Areas") is set forth as **Attachment 1** hereto.

I. Nextel Partners Meets All the Requirements for Designation as an Eligible Telecommunications Carrier to Serve the Designated Areas in the Commonwealth of Pennsylvania

Under Section 214(e)(6) of the Act, 47 U.S.C. § 214(e)(6), the Commission, consistent with the public interest, convenience and necessity, may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(1). The Commission has previously identified the showing that a carrier must make to meet the requirements of Section 214(e)(6).³ As demonstrated below, and as set forth in the declaration of Donald Manning, Attachment 5 hereto, Nextel Partners meets each of these requirements.

A. Nextel Partners Will Provide Service Over its Own Facilities

Nextel Partners has sufficient wireless network infrastructure facilities and capacity to provide supported services throughout the Designated Areas in the Commonwealth of Pennsylvania over its own facilities.

B. Nextel Partners Offers All Required Services and Functionalities

Nextel Partners offers, or will offer upon designation as an ETC in the Designated Areas, all of the services and functionalities required by Section 54.101(a) of the Commission's Rules, 47 CFR § 54.101(a), including the following:

1. **Voice grade access to the public switched telephone network.** Voice grade access to the public switched telephone network ("PSTN") means the ability to make and receive traditional voice phone calls, within a bandwidth of approximately 3500 Hertz.⁴ Nextel

³ Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(3)(6) of the Communications Act, FCC 97-419 (released December 29, 1997).

⁴ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, First Report

Partners' voice grade access enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. The bandwidth for Nextel Partners' voice grade access is, at a minimum, 300 to 3,000 Hertz.

2. **Local Usage.** As part of the voice grade access to the PSTN, an ETC must provide local calling. Nextel Partners, through its wireless network, provides subscribers the ability to send and receive local phone calls both over Nextel Partners' network and through interconnection with the incumbent local exchange carriers serving the Designated Areas. Local usage is included in all of Nextel Partners' calling plans. As a designated ETC, Nextel Partners will comply with any and all minimum local usage requirements adopted by the Commission.

3. **Dual tone multi-frequency ("DTMF") signaling or its functional equivalent.** DTMF signaling allows carriers to provide expeditious call setup, and enables modem usage.⁵ Nextel Partners uses out-of-band signaling and in-band multifrequency signaling that is functionally equivalent to DTMF.

4. **Single-party service or its functional equivalent.** Nextel Partners provides customers with single-party access for the duration of every phone call. Nextel Partners does not provide "multi-party" or "party line" services.

5. **Access to 911 and E911 emergency service.** The Commission has declared that access to emergency services is essential.⁶ Nextel Partners provides universal access to the 911 system for its customers, and has implemented and will continue to implement E911 services consistent with the Commission's Rules and Orders and local PSAP requests. To

and Order, 12 FCC Rcd 8776 at 8810-11 ("*USF Order*").

⁵ USF Order at 8814.

⁶ *Id.* at 8815.

date, Nextel Partners has received requests for, and has launched, six Pennsylvania counties at Phase I and two counties for Phase II E911 service.

6. **Access to operator services.** Nextel Partners offers all of its customers access to operator services, in accordance with the Commission's requirements.

7. **Access to interexchange service ("IXC").** Nextel Partners customers can use the Nextel Partners network for IXC access to place long distance phone calls. Access is through interconnection agreements with several IXC carriers. Nextel Partners' customers can also reach their IXC of choice by dialing the appropriate access code.

8. **Access to directory assistance.** All Nextel Partners customers receive access to 411 directory assistance service through the Nextel Partners network.

9. **Toll limitation for qualified low-income customers.** As required by the Commission's Rules, Nextel Partners, upon designation as an ETC, will make available to qualifying low-income customers a free solution that assists these low-income persons to control their telephone costs.⁷ Nextel Partners is fully capable of providing such a toll limiting service to its customers. Nextel Partners does not presently offer a toll limitation feature, because it is not an ETC. Upon designation as an ETC, Nextel Partners will participate in, and offer, LifeLine and Link-Up programs as required by the Commission's Rules. In accordance with Section 54.401(b) of the Commission's Rules, 47 CFR § 54.401(b), Nextel Partners will not disconnect Lifeline service for non-payment of toll charges.

C. The Pennsylvania Public Utility Commission Does Not Regulate CMRS Service

A carrier seeking designation as an ETC must typically request such a designation from the applicable state regulatory commission. However, the Pennsylvania Public Utility

⁷ *Id.* at 8821-22.

Commission (the "PPUC") does not regulate CMRS carriers such as Nextel Partners for the purpose of making ETC determinations. A letter to this effect dated February 28, 2003 has been provided by the Secretary of the PPUC, James J. McNulty, and is attached to this Petition as **Attachment 2**. This letter meets the Commission's specific requirements for such letters, in that it specifies that CMRS carriers, in general, and Nextel Partners, in particular, are "not subject to regulation in the Commonwealth of Pennsylvania for purposes of" determinations concerning eligibility for ETC status. Nextel Partners accordingly requests that the FCC designate Nextel Partners as "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission" pursuant to 47 U.S.C. § 214(e)(6).

D. Nextel Partners Will Advertise the Availability of Supported Services

Nextel Partners will advertise the availability of the above-described services and the charges therefore using media of general distribution, in accordance with the requirements of Section 54.201(d)(2) of the Commission's Rules, 47 CFR § 54.201(d)(2). Nextel Partners currently advertises the availability of its services, and will do so for each supported service on a regular basis, in newspapers, and magazines, or on radio and television, that constitute media of general distribution in Designated Areas of the Commonwealth of Pennsylvania.

II. Nextel Partners Requests Designation Throughout Each of the Designated Areas Within Its Service Coverage

Nextel Partners is not a rural telephone company as defined in Section 153(37) of the Communications Act, 47 U.S.C. § 153(37). Accordingly, Nextel Partners is required to describe the geographic area(s) within which it requests designation as an ETC. Nextel Partners requests designation as an ETC throughout each of the Designated Areas within the Commonwealth of Pennsylvania, as set forth in **Attachment 1**. As noted above, each of these Designated Areas are

study areas of rural telephone companies that Nextel Partners serves in their entirety.⁸ In

Attachment 3 hereto, Nextel Partners provides a map of its service area, within which Nextel Partners provides service to the entirety of the Designated Areas listed in Attachment 1 hereto.⁹

III. Designation of Nextel Partners as an ETC for the Designated Areas In the Commonwealth of Pennsylvania Would Serve the Public Interest

As noted above, each of the Designated Areas in which Nextel Partners seeks certification is an area served by a rural telephone company under the Communications Act.¹⁰ Consequently, the Act requires that the Commission determine that Nextel Partners' designation as an ETC in each case is in the public interest.¹¹ As demonstrated below, Nextel Partners' designation as an ETC would serve the public interest in each of the Designated Areas in a number of ways.

The Commission has determined that "[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies."¹² This is particularly applicable in the Designated Areas within the Commonwealth of Pennsylvania, which are rural, and in some cases remote,

⁸ Wireless service is inherently affected by conditions unique to wireless service providers and which conditions do not affect wireline service providers. Geography, atmospheric conditions and man-made radiofrequency and physical structure interference may at times reduce or increase a wireless user's coverage area. At the same time, the mobility and functionality of wireless phone service adds immense benefits and convenience to wireless users that wireline providers cannot match.

⁹ For purposes of this Petition, the coverage map provided in Attachment 3 hereto reflects the result of a conservative radiofrequency propagation analysis assuming a three-watt wireless phone.

¹⁰ See Attachment 1 hereto.

¹¹ See 47 U.S.C. § 214(e)(6).

¹² See *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 48, 55 (2000).

areas that in most cases are not presently served by competitive wireline carriers that could provide an alternative to the incumbent LEC. Designation of Nextel Partners as an ETC will provide a valuable alternative to the existing telecommunications regime in these areas, including a larger local calling area, the benefits of mobile telephony service and, where requested by the PSAP, GPS location assistance for customers calling 911.

In addition, designation of Nextel Partners as an ETC will provide an incentive to the incumbent LECs in the Designated Areas to improve their existing networks in order to remain competitive, resulting in improved services to consumers. Designation of Nextel Partners as an ETC in each case will also benefit consumers because support to services provided by Nextel Partners will help assure that quality services are available at “just, reasonable, and affordable rates” as envisioned in the Act.¹³

Designation of Nextel Partners as an ETC will also serve the public interest because Nextel will provide all of the supported services required by the Commission, will participate in the LifeLine and Link-Up programs as required by the Commission’s Rules, and will otherwise comply with all FCC Rules governing universal service programs, which are designed to ensure that the public interest standards of the Act are achieved. Allowing Nextel Partners access to universal service subsidies will allow Nextel Partners to continue to enhance and expand its network infrastructure to better serve consumers in underserved, high-cost areas of the Commonwealth of Pennsylvania, and to compete with other carriers on a level regulatory playing field.

Finally, designation of Nextel Partners as an ETC will serve the public interest by further promoting the extensive role Nextel Partners plays in the provision of communications services

¹³ See 47 U.S.C. § 254(b)(1).

to Pennsylvania public schools, libraries and local, state and federal government agencies, specifically law enforcement. At the time of this filing, Nextel Partners is the wireless carrier of choice for over 77 Pennsylvania public schools and libraries, 107 divisions of Federal Government agencies in Pennsylvania, 60 state-level agencies, and in excess of 460 local government agencies, extensively including police, fire and similar first-responders.

Accordingly, designation of Nextel Partners as an ETC will serve the public interest.

IV. Anti-Drug Abuse Certification

No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.¹⁴

V. High-Cost, Interstate Access, and Interstate Common Line Support Certification

Under Sections 54.313, 54.314 and 54.904 of the Commission's Rules, as well as 47 C.F.R. § 54.809, carriers wishing to obtain universal service support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, must self-certify with the Commission and the Universal Service Administrative Company ("USAC") as to their compliance with Section 254(e) of the Act. As explained above, the PPUC does not exercise jurisdiction over CMRS carriers such as Nextel Partners. Therefore, Nextel Partners has submitted its high-cost, interstate access and interstate common line support certification letters with the Commission and with USAC. Copies of these certifications are attached hereto as **Attachment 4**. Nextel Partners respectfully requests that the Commission issue a finding that Nextel Partners has met the high-cost, interstate access and interstate common lines support certification requirement and that Nextel Partners is, therefore, entitled to

¹⁴ See Declaration of Donald Manning, **Attachment 5** hereto.

begin receiving such support, where available, as of the date it receives a grant of ETC status in order that funding will not be delayed.¹⁵

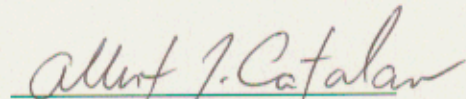
VI. Conclusion

Because the requirements for eligibility for designation as an eligible telecommunications carrier have been met, Nextel requests that the Commission promptly grant this Petition.

Respectfully submitted,

NPCR, INC. d/b/a NEXTEL PARTNERS

By



Albert J. Catalano

Matthew J. Plache

Ronald J. Jarvis

Catalano & Plache PLLC

3221 M Street, NW

Washington, DC 20007

(202) 338-3200 voice

(202) 338-1700 facsimile

Counsel for Nextel Partners

Date: April 3, 2003

¹⁵ See Guam and Cellular Paging, Inc. Petition for Waiver of FCC Rule Section 54.314, filed February 6, 2002.

ATTACHMENT 1

Rural telephone company study areas for which Nextel Partners
seeks ETC designation in this Petition

170145 Bentleyville Telco
170149 Frontier-Breezewood
170151 Buffalo Valley
170152 Frontier Canton
170161 Commonwealth
170162 Conestoga
170165 Denver and Ephrata
170175 Ironton
170177 Lackawaxen
170179 Laurel Highland
170183 Mahanoy and Mahantongo
170185 Marianna-Scenery
170191 North Eastern PA
170192 North Penn Telco
170195 Armstrong Tel North
170196 Palmerton
170197 Pennsylvania Telco
170200 Pymatuning Ind Telco
170204 South Canaan
170206 Sugar Valley
170210 Venus
170277 West Side

ATTACHMENT 2

PPUC letter expressly declining jurisdiction with respect to
designation of Nextel Partners as an ETC



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

February 28, 2003

Ronald J. Jarvis
Catalano & Plache, PLLC
3221 M. Street, NW
Washington, DC 20007

Dear Mr. Jarvis;

In response to your letter request filed on February 7, 2003 as legal counsel for NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners"), the Pennsylvania Public Utility Commission hereby affirmatively states that the Commonwealth of Pennsylvania does not exercise jurisdiction over commercial mobile radio service providers for purposes of making determinations concerning eligibility for Eligible Telecommunications Carrier designations under 47 U.S.C. Section 2214(e) and 47 C.F.R. Section 54.201, *et. seq.* See 66 Pa. C.S. §102.

In particular, the Pennsylvania Public Utility Commission affirms that Nextel Partners is not subject to regulation in the Commonwealth of Pennsylvania for purposes of the foregoing determination.

Sincerely,

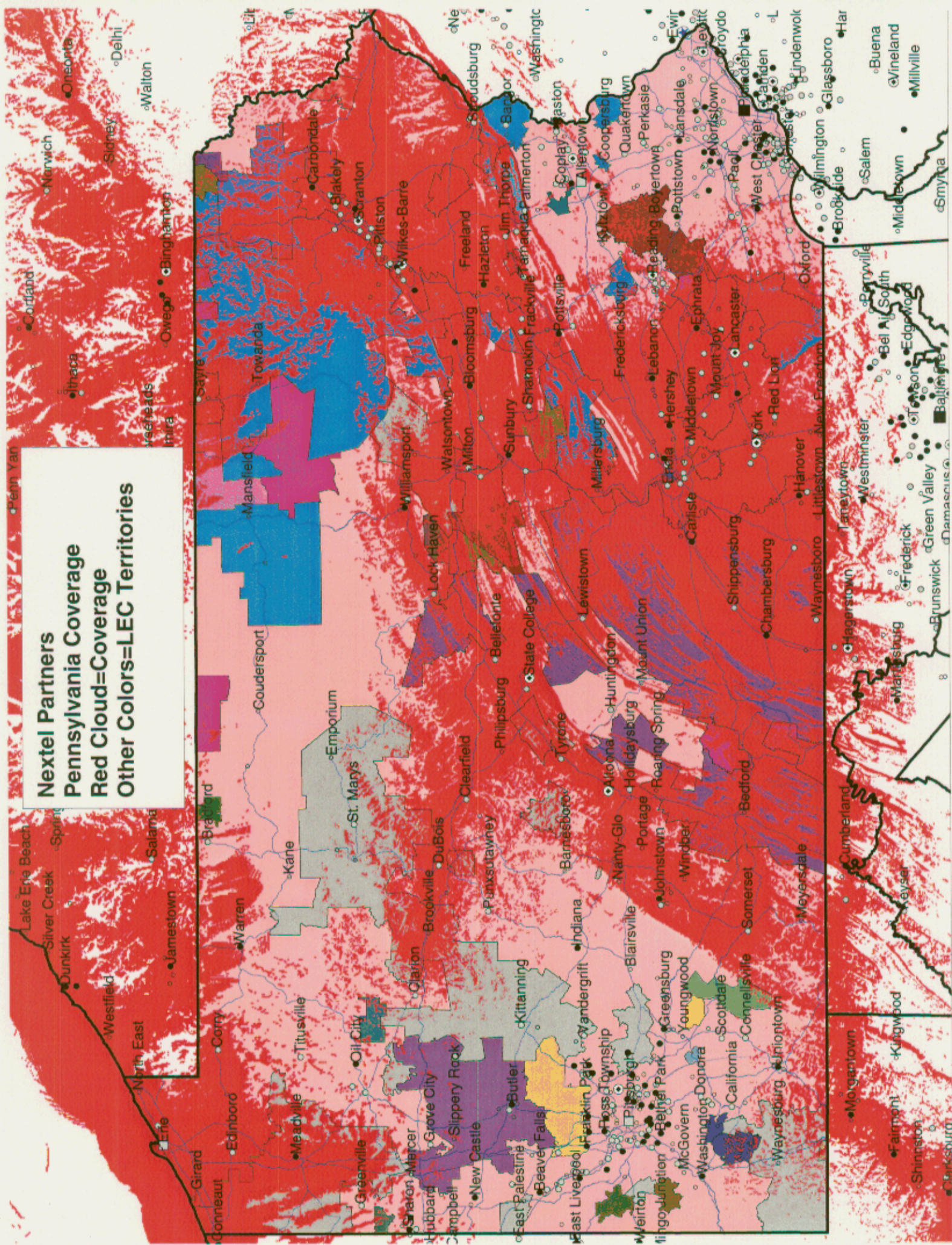
A handwritten signature in dark ink, reading "James J. McNulty", is positioned above the printed name and title.

James J. McNulty
Secretary

ATTACHMENT 3

Map of Nextel Partners' coverage areas
in the Commonwealth of Pennsylvania

Nextel Partners
Pennsylvania Coverage
Red Cloud=Coverage
Other Colors=LEC Territories



ATTACHMENT 4

Nextel Partners' Certification Letters

March 27, 2003

Via FedEx

Irene M. Flannery
VP—High Cost and Low Income Division
USAC
2120 L Street, NW, Suite 600
Washington, DC 20037

Marlene H. Dortch
Office of the Secretary
FCC
445 – 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 96-45
High Cost Loop Support
Initial Certification Filing

This is to certify pursuant to 47 C.F.R. §§54.313 and 54.314 that NPCR, Inc., d/b/a Nextel Partners, will use any Universal Service High Cost Loop Support received in 2003 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

I am authorized to make this certification on behalf of Nextel Partners. This certification is for the following study areas in the **Commonwealth of Pennsylvania**:

170149 Frontier-Breezewood	170195 Armstrong Tel. North
170183 Mahanoy and Mahantongo	170197 Pennsylvania Tel. Co.
170185 Marianna-Scenery	170204 South Canaan Tel. Co.
170191 North Eastern PA Tel Co.	170206 Sugar Valley Tel. Co.
170192 North Penn Tel. Co.	170210 Venus Tel. Corp.
	170277 West Side Tel. Co.-PA



Brent G. Eilefson, Corporate Counsel
NPCR, Inc. d/b/a Nextel Partners
10120 West 76th Street
Eden Prairie, MN 55344
952-238-2572

March 27, 2003

Irene M. Flannery
VP—High Cost and Low Income Division
USAC
2120 L Street, NW, Suite 600
Washington, DC 20037

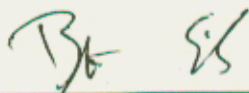
Marlene H. Dortch
Office of the Secretary
FCC
445 – 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 96-45
Interstate Access Support - IAS
Initial Certification Filing

This is to certify pursuant to 47 C.F.R. §809 that NPCR, Inc., d/b/a Nextel Partners, will use any Universal Service Interstate Access Support received in 2003 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

I am authorized to make this certification on behalf of Nextel Partners. This certification is for the following study areas in the **Commonwealth of Pennsylvania**:

170149 Frontier-Breezewood
170152 Frontier Canton
170169 Verizon North PA
170170 Verizon N-PA (Contel)
170209 UTC of Pennsylvania



Brent G. Eilefson, Corporate Counsel
NPCR, Inc. d/b/a Nextel Partners
10120 West 76th Street
Eden Prairie, MN 55344
952-238-2572

March 27, 2003

Irene M. Flannery
VP—High Cost and Low Income Division
USAC
2120 L Street, NW, Suite 600
Washington, DC 20037

Marlene H. Dortch
Office of the Secretary
FCC
445 – 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 96-45
Interstate Common Line Support
Initial Certification Filing

This is to certify pursuant to 47 C.F.R. §54.904 that NPCR, Inc., d/b/a Nextel Partners, will use any Universal Service Interstate Common Line Support received in 2003 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

I am authorized to make this certification on behalf of Nextel Partners. This certification is for the following study areas in the **Commonwealth of Pennsylvania**:

170145 The Bentleyville Tel. Co.	170191 North Eastern PA Tel Co.
170151 Buffalo Valley Tel. Co.	170192 North Penn Tel. Co.
170161 Commonwealth Tel. Enterprises	170195 Armstrong Tel. North
170162 The Conestoga Tel. Co.	170196 Palmerton Tel. Co.
170165 Denver and Ephrata	170197 Pennsylvania Tel. Co.
170175 Ironton Tel. Co.	170200 Pymatuning Ind. Tel. Co.
170177 Lackawaxen Tel. Co.	170204 South Canaan Tel. Co.
170179 Laurel Highland Tel. Co.	170206 Sugar Valley Tel. Co.
170185 Marianna-Scenery	170210 Venus Tel. Corp.
	170277 West Side Tel. Co.-PA

BG SK

Brent G. Eilefson, Corporate Counsel
NPCR, Inc. d/b/a Nextel Partners
10120 West 76th Street
Eden Prairie, MN 55344
952-238-2572

ATTACHMENT 5

Declaration of Donald Manning

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket 96-45
Universal Service)	
)	
NPCR, INC. d/b/a NEXTEL PARTNERS)	
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Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the Commonwealth of Pennsylvania)	
_____)	

Declaration of Donald Manning

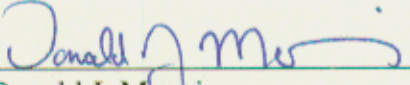
I, the undersigned Donald J. Manning, do hereby declare under penalty of perjury as follows:

1. I serve as Vice-President and General Counsel for Nextel Partners, Inc. ("Nextel Partners") and each of its subsidiary companies, including, but not limited to, NPCR, Inc. d/b/a Nextel Partners.
2. NPCR, Inc. is a wholly-owned, operational-arm subsidiary of Nextel Partners Operating Corp., which is a wholly-owned, operational subsidiary of Nextel Partners, Inc.
3. Nextel Partners, Inc. is a publicly-traded company with its common stock listed on the Nasdaq market, and is broadly owned by both institutional and individual investors.
4. Nextel Partners, Inc.'s President is John Chapple. Vice Presidents include Don Manning, Perry Satterlee, John Thompson, Mark Fanning, and Dave Aas. Entities with 5% or more equity positions with Nextel Partners, Inc. include: Credit Suisse First Boston through several funds held by DLJ Merchant Banking, Madison Dearborn Partners, Wellington Management Co., Eagle River Investments, Motorola, Cascade Investments (an investment company controlled by William H. Gates, III), and Nextel Communications, Inc.
5. This Declaration is submitted in support of Nextel Partners' "Petition for Designation As an Eligible Telecommunications Carrier," to which this Declaration is appended.
6. I declare and certify as follows, and as described in the aforementioned Petition, that: Nextel Partners is not subject to the jurisdiction of the Pennsylvania Public Utility Commission; that Nextel Partners offers, or will offer, all of the services designated by the Commission for support pursuant to Section 254(c)(3) of the Act; that Nextel Partners offers, or will offer, the supported services using its own facilities; and that Nextel Partners advertises, or will advertise, the availability of supported services and the charges therefore using media of general distribution as described in the annexed Petition.

7. I further declare that I have reviewed the annexed Petition and that the facts stated therein, of which I have personal knowledge, are true and correct to the best of my knowledge and belief.

8. I further declare that to the best of my knowledge, Nextel Partners, including all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or nonvoting) of Nextel as specified in Section 1.2002(b) of the Commission's Rules are not subject to denial of federal benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.

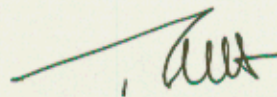

Donald J. Manning
Vice President and General Counsel
NPCR, Inc. d/b/a Nextel Partners

Dated: March 31, 2003

CERTIFICATE OF SERVICE

The undersigned, an attorney in the law firm of Catalano & Plache, PLLC hereby certifies that on this 3rd day of April, 2003, a true and correct photocopy of the foregoing "Petition" was sent by hand delivery to the following person:

Richard Smith
Accounting Policy Division
Federal Communications Commission
445 12th Street, SW
Room 5-A660
Washington, DC 20554

A handwritten signature in black ink, appearing to read "R. Jarvis", is written over a horizontal line.

Ronald J. Jarvis